

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re:

Marie Guerrera Tooker

Case No. 8-10-78529-dte

Chapter 11

Debtor(s)

**APPLICATION IN SUPPORT OF
ORDER TO SHOW CAUSE**

To the Hon. Dorothy Eisenburg, Bankruptcy Judge;

I Mariè Guenvera Tooker Movant herein, make this application in support of my Order to Show Cause to seek entry of an Order to Disqualify Judge Eisenburg

In support of the relief requested, I hereby allege as follows:

See attached

WHEREFORE, Movant prays for the entry of an Order to Show Cause granting the relief requested .

Dated: 2-16-11

By: 
(signature of movant)

Type or Print Name: *(Signature of灭菌人)* **Marije Everaars Tooker**

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Calverton, N.Y. 11933

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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
CENTRAL ISLIP DIVISION

Marie Guerrera Tooker

X

Chapter 11 *79529*
Case No. 8-10-78529-dte

Debtor,

Motion for Disqualification

X

To the Honorable **DOROTHY EISENBERG**, United States Bankruptcy Judge of the Bankruptcy case captioned above cause as provided for by Title 28 USC 455 Disqualification of Justice, Judge, or Magistrate Judge.

(a) Any justice, judge, or magistrate judge of the United States shall disqualify herself in any proceeding in which her impartiality might reasonably be questioned.

(b) She shall also disqualify herself in the following circumstances: Where she has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings.

Marie Guerrera Tooker is the debtor in the above titled case.

The Debtor fears and believes that she will not receive fair and impartial proceedings and determinations of any and all matters concerning the above case in this court if the cause is heard and determined by the **Honorable Dorothy Eisenberg** one of the judges of this court, because of her violations and willful misconduct while in office, for her persistent failure to perform her duties, for her conduct that is prejudicial to the administration of justice and which brings the Federal judiciary into disrepute, for her knowing and then allowing unlawful and criminal acts, and for her engaging in acts in violation of federal law.

Debtor states that this belief is founded upon the following facts:

1. In debtors' previous Chapter 11 case that was unlawfully converted to a Chapter 7 against rule 1112(c) of the Federal Bankruptcy Code. The Trustee Alan Mendelsohn's Attorney, Sal Lamonica was Judge Eisenbergs' Law Clerk from 1989-1991 creating conflicting interests between the Debtor and the Judge.
2. Judge Eisenberg allowed the Trustee Alan Mendelsohn to comingle money of the debtor's estate with money that was given to the debtor from a debtor relief agency under Title11USC 526.
3. Judge Eisenberg **Res judicata** or **res iudicata** (RJ), also known as claim preclusion, is the Latin term for "a matter [already] judged", Judge Rosenthal had ordered "that the debtor shall receive any surplus". Judge

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EASTERN DISTRICT OF NEW YORK

Eisenberg ordered that the money go to the debtor relief agency when the debtor had a written contract. The debtor relief agency was my highest creditor, the trustee abandoned the properties and no money was paid out to any of the secured creditors.

4. Judge Eisenberg had a personal and close friendship with Judge Cyganowski who was the Judge in the debtors' previous chapter 11 case. Judge Cyganowski had a personal relationship with debtor's former attorney Ron Terenzi and owed each other "favors". Judge Cyganowski resigned immediately after just being appointed for 14 more years.
5. Judge Cyganowski allowed fraudulent claims in debtors previous Chapt 11.
6. Judge Eisenberg allowed fraudulent claims in debtor's corporate Chapt.11.
7. Judge Eisenberg showed partiality towards debtor's highest creditor when she stated she trusted his expertise in real estate and yet the debtor's witness was a licensed Real Estate Broker, who valued the property fairly and she ignored his testimony.
8. In debtors previous bankruptcy, the creditor's attorney Farrell Fritz made a threatening comment that he "was there to teach the debtor a lesson and Judge Eisenbergs' reply was this might be worth waiting for.
9. Judge Eisenberg allowed a frivolous motion to convert the debtor to a chapter 7 when she ruled in Court that under rule 1112(c) the court is prohibited by Federal Law against converting farmers from Chapter 11 to a Chapter 7. She allowed the creditors attorney to give the debtor part of the motion, when he clearly stated he submitted to the court completely different documents. The motion should have been dismissed on two grounds. It was already determined that the debtor is a farmer and a motion filed with the court should be the same one served to the debtor.
10. Judge Eisenberg allowed the Trustee to insult the debtor in open court by derogatorily calling her "MR. TOOKER" any person of ordinary intelligence could see that the debtor is clearly a woman.
11. While attending a scheduled court appearance in front of Judge Eisenberg, Trustee Marc Pergament was trying to take a handicapped womans' wheel chair equipped van that was customized for her because of her disability. After this debtor nearly lost her vehicle, Mr.Pergament bursts out laughing in open court when this handicapped woman cried. It was malicious and unprofessional for a Federal Trustee to burst into outrageous laughter when someone loses their belongings especially a handicapped wheelchair bound woman; moreover, Judge Eisenberg allowed this behavior in her courtroom.
12. On February 3rd ,2011 Judge Eisenberg in open court stated that I frustrate her. She denied me of my first amendment and my fifth amendment by shutting me up and not allowing me to defend myself. Whenever I try to state the facts instead of listening she threatens me with calling the marshals and they show up in the court room to intimidate me which is unfair and completely unnecessary .

Conclusion

The above facts support in the interest of justice, that Judge Dorothy Eisenberg is disqualified in the above case.

Respectfully,

February 16, 2011

Marie Guerrera Tooker

